

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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<b>CLAUDETTE MACK,</b>  <b>Plaintiff,</b>  <b>VS.</b>  <b>P/O JEFF MANNING and</b> <b>P/O RUSSELL,</b>  <b>Defendants.</b>	: : : : : : : : : :	<b>CIVIL ACTION</b>    <b>No. 02-3916</b>
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**DEFENDANTS' PRE-TRIAL MEMORANDUM**

Pursuant to Local Rule 16.1(c) and this Court's July 30, 2002 Scheduling Order, defendants hereby submit their Pre-Trial memorandum.

**NATURE OF THE CASE:**

Plaintiff brings this action pursuant to 42 U.S.C. § 1983 alleging that defendant Police Officer Jeffrey Mannings violated her Fourth Amendment rights by subjecting her to excessive force. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

Plaintiff also brings a state law "reckless disregard of safety" claim against Police Officer Saundra Russell. Plaintiff's complaint also purports to bring "false arrest," "false imprisonment," and violation of "free speech" and "due process" claims against the defendants, purportedly in violation of the First, Fourth and Fourteenth Amendments. Plaintiff is contemplating withdrawing all such claims, so that the only claim that would remain is plaintiff's excessive force claim against Officer Mannings.

**FACTS:**

This lawsuit arises out of events that occurred on February 21, 2002. On that date, Officers Jeffrey Mannings and Sandra Russell were on patrol in the 25<sup>th</sup> Police District when they arrived on the location of a police investigation in the 3000 block of Germantown Avenue. Highway Patrol officers were investigating reports of a person with a gun. When Mannings and Russell arrived at 3043 Germantown Avenue, other police officers had already entered the property, and were conducting an investigation into the report of a “person with a gun.”

Neither Police Officer Mannings nor Russell went inside the property. Officer Mannings stationed himself in the doorway to prevent anyone from entering while Highway Patrol continued their investigation inside the property. After a few minutes, plaintiff Claudette Mack came up the street. Ms. Mack was very irate and was yelling. She went up to the door and tried to push her way past Officer Mannings who was standing in the doorway. Officer Mannings put his arm out, putting his hand against the doorjamb, to prevent Ms. Mack from entering. Ms. Mack immediately started screaming that Officer Mannings had hit her.

Neither Officer Mannings nor Officer Russell entered the property any further than a couple of steps inside the doorway. Highway Patrol officers had already entered the property before Mannings and Russell arrived on the scene. Although plaintiff brings a “reckless disregard of safety” claim against Officer Russell, plaintiff is unable to say that Officer Russell witnessed the alleged assault by Officer Mannings.

**WITNESSES:**

Defendants intend to call the following witnesses:

Police Officer Jeffrey Mannings  
Police Officer Sandra Russell

Police Sgt. James Misnik  
Police Officer Donna Stewart  
Police Officer Crystal Wilkerson  
Police Officer Kendall Robinson  
Police Corporal Gail Middleton  
Police Officer John Speiser  
Police Officer Manuel Perez

Each of these witnesses was present on the date in question, and can testify as to what transpired at 3043 Germantown Avenue. All of these police witnesses can be reached through undersigned counsel at the following address:

C/O City of Philadelphia, Law Department  
1515 Arch Street, 14<sup>th</sup> Floor  
Philadelphia, Pa 19102

Defendants reserve the right to call as witnesses in their case-in-chief any witnesses identified by plaintiff. Defendants also reserve the right to call rebuttal witnesses.

**EXHIBITS:**

D-1 Philadelphia Police Department Vehicle or Pedestrian Investigation Report (75-48A); DC#02-25-018216.

D-2 Philadelphia Police Department Complaint or Incident Report (75-48), DC#02-25-18192.

D-3 Philadelphia Police Department Complaint or Incident Report (75-48), DC#02-25-18193.

D-4 Philadelphia Police Department Complaint or Incident Report (75-48), DC#02-25-18194.

D-5 Philadelphia Police Department Vehicle or Pedestrian Investigation Report (75-48A); DC#02-25-18191.

D-6 Photographs – Inside of 3043 Germantown Avenue.

Defendants reserve the right to utilize and introduce as evidence in their case-in-chief, exhibits identified by plaintiffs.

**SPECIAL COMMENTS REGARDING LEGAL ISSUES, ETC:**

1. Defendants have filed a motion in limine to preclude plaintiff from introducing evidence, testimony, documents or argument relating to Internal Affairs Division investigations into incidents other than the one at issue in this lawsuit.

**ESTIMATED LENGTH OF TRIAL:**

Defendants estimate that it will take approximately one full day to put on defendants' case in chief. Defendants estimate that the entire trial will take approximately 2 days.

Respectfully submitted,

BY: \_\_\_\_\_

LYNNE A. SITARSKI  
Deputy City Solicitor  
City of Philadelphia  
1515 Arch Street, 14<sup>th</sup> Floor  
Philadelphia, PA 19102  
215- 683-5446

Date: April 28, 2003

**CERTIFICATE OF SERVICE**

I hereby certify that on April 28, 2003, a true and correct copy of Defendants' Pre-Trial Memorandum was filed via ECF and was sent via fax to the individual below.

Alan Yatvin, Esquire  
230 S. Broad Street, Suite 503  
Philadelphia, PA 19102

**BY:** \_\_\_\_\_  
LYNNE A. SITARSKI  
Deputy City Solicitor